

Notice of Allowability

Application No.

10/033,806

Examiner

Alan S. Chen

Applicant(s)

GREENE ET AL.

Art Unit

2182

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment received 11/03/2005.
2. ☒ The allowed claim(s) is/are 51-54, 56, 59, 60, 65, 68 and 69 after Examiner's Amendment.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Nathaniel Levin (Reg. No. 34,860) on 01/04/2006. Examiner stated dependent claims 55, 58, 64 and 67 submitted in an amendment on 11/03/2005 would be in conditions for allowance if they were incorporated into the independent claims. Mr. Levin agreed to incorporate some of the dependent claims into the independent claims to place the application in allowance, those changes set forth below.

2. The application has been amended as follows:
 - Claim 51, line 2, after --first device--, insert " which is not implanted in the patient"
 - Claim 52, line 2, after --third device--, insert " , where the first device is not implanted in the patient"
 - Claim 53, line 2, delete the word --and--
 - Claim 53, line 2, after --worn by a patient--, insert " and not implanted in the patient"
 - Claim 54, line 2, after --worn by a patient--, insert " and not implanted in the patient"
 - Claim 56, change --55-- to "51"
 - Claim 59, change --58-- to "52"
 - Claim 65, change --64-- to "53"

- Claim 68, change --67-- to "54"
- Cancel claims 55,57,58,61-64,66,67 and 70-72.

Allowable Subject Matter

3. The following is the statement of reasons for the indication of allowable subject matter: The prior art disclosed by the applicant and cited by the Examiner fail to teach or suggest, alone or in combination, *all* the limitations of the independent claim(s) (claims 51-54), particularly a method for the delivery of treatment to a patient via a second device such that the patient is also wearing a first device which is not implanted in the patient, such that the first device uses a patient identifier that includes information for identifying a patient, the second device or a third device using the transmitted patient identifier from the first device to confirm the proposed treatment is for the patient. Once confirmed, the second device will apply the proposed treatment to the patient.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alan S. Chen whose telephone number is 571-272-4143. The examiner can normally be reached on M-F 8:30am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim N. Huynh can be reached on (571) 272-4147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ASC

01/04/2006



KIM HUYNH
SUPERVISORY PATENT EXAMINER

1/4/06